

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

— X —

OLEG CASSINI, INC.,

**Case No. 1:11-cv-08751-PAE**

Plaintiff,

-against-

SERTA, INC., NATIONAL BEDDING COMPANY,  
LLC, J.C. PENNEY COMPANY, INC., J.C. PENNEY  
CORPORATION, INC. and JOHN DOES (1-10),

**NOTICE OF MOTION TO  
DISMISS ON BEHALF OF  
DEFENDANTS SERTA, INC.  
AND J.C. PENNEY, INC.**

Defendants.

— X —

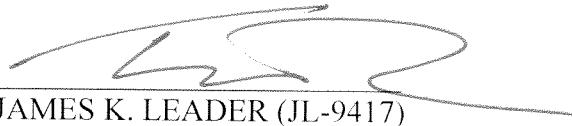
PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law,  
the Declaration of Nicole M. Murray, Esq sworn to on January 5, 2011 and the Exhibits annexed  
thereto, all pleadings and proceedings herein, and pursuant to Federal Rule of Civil Procedure  
12(b) and this Court's inherent powers, Defendants Serta, Inc., National Bedding Company,  
LLC, J.C. Penney Company, Inc. and J.C. Penney Corporation, Inc., by their attorneys, Leader &  
Berkon LLP, move this Court, before the Honorable Paul A. Engelmayer, United States District  
Judge, United States District Court for the Southern District of New York, Daniel Patrick  
Moynihan, United States Courthouse, 500 Pearl Street, New York, NY 10007-1312, for an  
Order Dismissing Plaintiff's Complaint pursuant to the first-to-file rule and Federal Rule of Civil  
Procedure 12(b), and, in the alternative, if the Complaint were to survive dismissal, for an order  
transferring this action to the co-pending action in the United States District Court for the  
Northern District of Illinois.

PLEASE TAKE FURTHER NOTICE that pursuant to Local Civil Rule 6.1, opposition papers, if any, shall be served on the undersigned within fourteen (14) days from service of this motion.

Dated: New York, New York  
January 5, 2012

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By:

  
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